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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff

12 v.

13 STEVEN MICHAEL BURKE,

14 Defendant.
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No. CR19-202 RSM

**PRELIMINARY ORDER OF
FORFEITURE**

17 THIS MATTER comes before the Court on the United States' Motion for Entry of
18 a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States,
19 Defendant Steven Burke's interest in the following property:

- 20 1. One Samsung cellular telephone, IMEI 355989083427588; and
21 2. One iPhone, IMEI 359404088517900.

22 The Court, having reviewed the United States' Motion, as well as other papers and
23 pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is
24 appropriate because:

- 25 • The above-identified electronic equipment is forfeitable pursuant to
26 18 U.S.C. § 2253 as it is comprised of prohibited images or property used
27 to commit or to promote commission of the offense of Possession of Child
28 Pornography, in violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2); and,

- 1 • Pursuant to the plea agreement he entered on November 19, 2020, the
2 Defendant agreed to forfeit the electronic equipment. Dkt. No. 36, ¶ 11.
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4 NOW, THEREFORE, THE COURT ORDERS:

5 1) Pursuant to 18 U.S.C. § 2253, and his Plea Agreement, the Defendant's
6 interest in the above-identified electronic equipment is fully and finally forfeited, in its
7 entirety, to the United States;

8 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
9 be final as to the Defendant at the time he is sentenced; it will be made part of the
10 sentence; and, it will be included in the judgment;

11 3) The United States Department of Homeland Security ("HSI"), and/or its
12 authorized agents or representatives, shall maintain the electronic equipment in its
13 custody and control until further order of this Court. HSI shall destroy any child
14 pornography unless it has been destroyed already or will be retained for official,
15 investigative use, as permitted by 21 U.S.C. §§ 853(i) and 881(e);

16 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
17 United States shall publish notice of this Preliminary Order and its intent to dispose of the
18 electronic equipment as permitted by law. The notice shall be posted on an official
19 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
20 any person known to have alleged an interest in the electronic equipment, the
21 United States shall, to the extent possible, also provide direct written notice to that
22 person. The notice shall state that any person, other than the Defendant, who has or
23 claims a legal interest in the electronic equipment must file a petition with the Court
24 within sixty (60) days of the first day of publication of the notice (which is thirty (30)
25 days from the last day of publication), or within thirty (30) days of receipt of direct
26 written notice, whichever is earlier. The notice shall advise all interested persons that the
27 petition:
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- 1 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
2 interest in such property;
3 b. shall be signed by the petitioner under penalty of perjury; and,
4 c. shall set forth the nature and extent of the petitioner's right, title or interest
5 in the forfeited property, as well as any facts supporting the petitioner's
6 claim and the specific relief sought.

7 5) If no third-party petition is filed within the allowable time period, the
8 United States shall have clear title to the electronic equipment, and this Preliminary Order
9 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

10 6) If a third-party petition is filed, discovery may be conducted, if necessary,
11 under the Federal Rules of Civil Procedure before any hearing on the petition is held.
12 Following adjudication of any third-party petitions, the Court will enter a Final Order of
13 Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
14 adjudication; and,

15 7) The Court will retain jurisdiction for the purpose of enforcing this
16 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
17 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
18 Fed. R. Crim. P. 32.2(e).

19 IT IS SO ORDERED.

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21 DATED this 14th day of July, 2021.

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24 RICARDO S. MARTINEZ
25 CHIEF UNITED STATES DISTRICT JUDGE

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1 Presented by:

2
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